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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,303	11/14/2003	Brian S. McCain	TUC920030126US1 (16991)	2111
46263 7590 11/06/2007 SCULLY, SCOTT, MURPHY, & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			EXAMINER DAO, THUY CHAN	
			ART UNIT 2192	PAPER NUMBER
			MAIL DATE 11/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/714,303

Applicant(s)

MCCAIN, BRIAN S.

Examiner

Thuy Dao

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09/05/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is responsive to the amendment filed on September 5, 2007.
2. Claims 1-14 have been examined.

### **Response to Amendments**

3. Per Applicant's request, claims 15-20 have been withdrawn.
4. The objection to claims 1, 9, and 15 is withdrawn in view of Applicant's amendments.
5. The 35 USC §112, first paragraph rejection over claims 1-14 is withdrawn in view of Applicant's amendments.

### **Response to Arguments**

6. Applicant's arguments have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of US Patent No. 6,862,616 as set forth in details below.

### **Claim Rejections – 35 USC § 102**

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,862,616 to Tompkins (art made of record, hereinafter "Tompkins").

### **Claim 1:**

Tompkins discloses a program storage device and a *method for use by a client host in obtaining software* (e.g., FIG. 1, col.3: 51 – col.4: 65), comprising:

*establishing a session with a first server host* (e.g., col.2: 41-60; col.4: 12-29); and

*downloading first software from the first server host for use during the session to implement a client side of a first version of a first network application* (e.g., col.4: 30-65; col.3: 46 – col.4: 11),

*the client side initially not having a functionality for implementing the first network application* (e.g., col.2: 41 – col.3: 23);

*wherein the first software is compatible with software executed at the first server host to implement a server side of the first version of the first network application* (e.g., FIG. 2, col.5: 1-63);

*enabling the client host to communicate with a different server that is using a version of the first network application and allowing the client host to download client-side code of the different version of the same first network application from the different server* (e.g., FIG. 4, col.6: 18 – col.7: 59),

*wherein the client host is allowed to communicate simultaneously with one or more different servers even if the different servers are running different versions of the same first network application* (e.g., col.5: 64 – col.6: 17).

**Claim 2:**

The rejection of claim 1 is incorporated. Tompkins also discloses *downloading the first software from the first server host dynamically, as needed, by the client host* (e.g., col.3: 51 – col.4: 65; col.2: 41-60).

**Claim 3:**

The rejection of claim 1 is incorporated. Tompkins also discloses *the client host initiates the downloading when it determines that it needs the first software to interact with the first server host* (e.g., col.4: 12-65; col.5: 1-63).

**Claim 4:**

The rejection of claim 1 is incorporated. Tompkins also discloses *downloading the first software as at least one object using at least one specialized class loader (e.g., col.6: 18 – col.7: 59).*

**Claim 5:**

The rejection of claim 1 is incorporated. Tompkins also discloses:

*establishing a session with a second server host; and downloading second software from the second server host for use during the session therewith to implement a client side of a second version of the first network application that differs from the first version (e.g., col.2: 41 – col.3: 23; col.5: 64 – col.6: 17);*

*wherein the second software is compatible with software executed at the second server host to implement a server side of the second version of the first network application (e.g., col.3: 51 – col.4: 65; col.6: 18 – col.7: 59).*

**Claim 6:**

The rejection of claim 5 is incorporated. Tompkins also discloses *the sessions with the first and second server hosts overlap, at least in part (e.g., col.5: 1-63; col.3: 46 – col.4: 11).*

**Claim 7:**

The rejection of claim 1 is incorporated. Tompkins also discloses:

*establishing a session with a second server host; downloading second software from the second server host for use during the session therewith to implement a client side of a second network application that differs from the first network application (e.g., col.3: 51 – col.4: 65; col.6: 18 – col.7: 59);*

*wherein the second software is compatible with software executed at the second server host to implement a server side of the second network application (e.g., col.2: 41 – col.3: 23; col.4: 12-65).*

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**Claim 8:**

The rejection of claim 1 is incorporated. Tompkins also discloses:

*establishing a further session with the first server host; downloading second software from the first server host for use during the further session to implement a client side of a second network application that differs from the first network application (e.g., col.5: 1-63; col.3: 46 – col.4: 65);*

*wherein the second software is compatible with software executed at the first server host to implement a server side of the second network application; and the session and further session with the first server host overlap, at least in part (e.g., col.2: 41 – col.3: 23; col.6: 18 – col.7: 59).*

**Claims 9-14:**

Claims 9-14 are program storage device versions, which recite the same limitations as those of claims 1-8, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claims, they also teach all of the limitations of claims 9-14.

**Conclusion**

9. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone is (571) 272 8570. The examiner can normally be reached on every Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

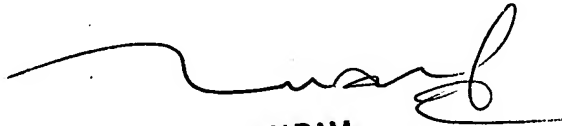
Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Dao



TUAN DAM  
SUPERVISORY PATENT EXAMINER